

Tom Buchele, OSB No. 081560
Earthrise Law Center
10101 S. Terwilliger Blvd.
Portland, OR 97219-7799
Telephone: 503-768-6736
Fax: 503-768-6642
E-mail: tbuchele@lclark.edu

Jesse A. Buss, OSB No. 122919
Willamette Law Group
411 Fifth Street
Oregon City, OR 97045-2224
Telephone: 503-656-4884
Fax: 503-608-4100
E-mail: jesse@WLGpnw.com

Attorneys for Plaintiff Blue Mountains Biodiversity Project

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PENDLETON DIVISION

**BLUE MOUNTAINS BIODIVERSITY
PROJECT**, an Oregon non-profit corporation;

Case No. 2:20-cv-2158-SU

Plaintiff,

DECLARATION OF JESSE A. BUSS

v.

SHANE JEFFRIES, in his official
capacity as Ochoco National Forest
Supervisor; and
UNITED STATES FOREST SERVICE,
an agency of the United States Department
of Agriculture,

Defendants.

DECLARATION OF JESSE A. BUSS

I, Jesse A. Buss, declare as follows:

1. I am over the age of eighteen and I make this declaration based on my own personal knowledge of the facts set forth below. If called to testify in this matter, I could and would testify as follows.

2. I am an attorney for Plaintiff Blue Mountains Biodiversity Project (“BMBP”) in this case.

3. I represented BMBP, then known as the League of Wilderness Defenders/Blue Mountains Biodiversity Project (“LOWD/BMBP”), as one of its counsel of record in *LOWD/BMBP v. Turner*, No. 2:16-cv-01648-MO (D. Or.), which was filed in August of 2016. After the challenged decision in that case was voluntarily withdrawn by the Forest Service in October of 2016, I continued to represent BMBP regarding the Walton Lake Project during the Forest Service’s ongoing decision-making process, which concluded in December 2020.

4. Along with co-counsel, my above-described representation of BMBP included the preparation and sending of multiple FOIA requests to the Forest Service, seeking records regarding aspects of the Walton Lake Project and its ongoing NEPA analysis. The FOIA requests are dated January 24, 2017 (one to the Ochoco National Forest, one to the Regional Office); March 17, 2017; April 27, 2017; June 1, 2017; August 27, 2019; February 25, 2020; and December 16, 2020, respectively, and were included as Exhibit B to the Declaration of Thomas C. Buchele, ECF No. 11-2. The Forest Service responded to each of these FOIA requests with cover letters and responsive documents.

5. On March 22, 2021, BMBP submitted a Motion to Compel Completion the Administrative Record, ECF No. 10, along with supporting declaration and exhibits, *see* ECF

Nos. 11 through 11-23, which included spreadsheets of documents received in response to the above noted FOIA requests, ECF No. 11-6 (Bucheles Ex. F), and documents that had been included in the 2016 Walton Lake Administrative Record, but were omitted from the current record, ECF No. 11-5 (Bucheles Ex. E), that BMBP sought to have added to the record. Magistrate Judge Sullivan recently ruled against BMBP's motion, *see* ECF No. 40 (entered August 19, 2021), and BMBP will file objections to that decision pursuant to FRCP 72(a).

6. Attached to this declaration as Exhibit 1 is a true and correct copy of the October 8, 2019, email chain from Beth Peer to Donald Ashcraft and Barton Wills, with subject line "FW: Walton Lake Alt. 3 and Temp Roads," that the Forest Service provided to BMBP as part of its second partial response to BMBP's December 2020 FOIA request. BMBP requested that this document be added to the record as part of its Motion to Complete, ECF No. 10 at 19–22; ECF No. 11-6 at 6, Item 108; ECF No. 11-13 at 51–53.

7. Attached to this declaration as Exhibit 2 is a true and correct copy of the November 13, 2015, "Prescription Record" by Renee Roufs that the Forest Service included in the original 2016 Walton Lake Administrative Record at AR 6276–78. BMBP requested that this document be added to the record as part of its Motion to Complete, ECF No. 10 at 18; ECF No. 11-5 at 4, Item 77; ECF 11-16.

8. Attached to this declaration as Exhibit 3 is a true and correct copy of the December 4, 2015, "Recreation Resource Report" by Jim Beaupre that the Forest Service included in the original 2016 Walton Lake Administrative Record at AR 6340–45. BMBP requested that this document be added to the record as part of its Motion to Complete, ECF No. 10 at 18; ECF No. 11-5 at 5, Item 88; ECF No. 11-21.

9. Attached to this declaration as Exhibit 4 is a true and correct copy of the Forest Service Manual, Section 2300, *Chapter 2330 – Forest Service Planning, Design, Operation, and Maintenance of Developed Recreation Sites*, titled “wo_2330._after final FSH chapters 10 and 50 eha.ma.OGC 3.29.21_Corrected.doc” and downloaded on August 18, 2021, from the Forest Service website located at https://www.fs.fed.us/cgi-bin/Directives/get_dirs/fsm?2300. BMBP attaches a copy of this Forest Service document here for the Court’s convenience because this Forest Service document may be difficult for the Court to locate.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

DATED this 19th day of August 2021 in Oregon City, Oregon.

s/ Jesse A. Buss
Jesse A. Buss, OSB No. 122919
Willamette Law Group
411 Fifth Street
Oregon City, OR 97045-2224
Telephone: 503-656-4884
Fax: 503-608-4100
E-mail: jesse@WLGpnw.com